

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

TENTATIVE ORDER NO. R9-2004-0111
NPDES PERMIT NO. CA0108952

WASTE DISCHARGE REQUIREMENTS

FOR

SWEETWATER AUTHORITY
LOWER SWEETWATER RIVER BASIN
GROUNDWATER DEMINERALIZATION PLANT

SAN DIEGO COUNTY

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The California Regional Water Quality Control Board, San Diego Region, (hereinafter Regional Board), finds that:

1. The Sweetwater Authority (hereinafter discharger) discharges brine concentrate, groundwater well-purge water, plant feed-water dump, pressure (air) relief valve water, and chlorine contact-tank overflow water to the Upper Paradise Creek Flood Control Channel, a tributary to the Sweetwater River and San Diego Bay, and to the Lower Sweetwater River, a freshwater ephemeral river.
2. The discharges are currently regulated by Waste Discharge Requirements (WDR) Order No. 99-30, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0108952, adopted by this Regional Board on June 7, 1999 and Addendum No. 1 to Order No. 99-30, NPDES Permit No. CA0108952, adopted by this Regional Board on May 10, 2000. Order No. 99-30, NPDES Permit No. CA0108952, expires on June 7, 2004.
3. The discharger submitted a Report of Waste Discharge (RWD) dated December 4, 2003 to this Regional Board in application for renewal of its NPDES Permit to continue to discharge brine concentrate, groundwater well-purge water, plant feed-water dump, pressure (air) relief valve water, chlorine contact-tank overflow water. By letter dated February 23, 2004, the discharger submitted supplemental effluent and receiving water data to this Regional Board to complete the application. A *Water Flow Schematic* is provided in *Attachment A*.
4. The Demineralization Plant is located at 3066 North Second Avenue, Chula Vista, and demineralizes groundwater by using a cartridge filter and reverse osmosis system. The primary discharge from the facility is a brine concentrate from the reverse osmosis system. The reverse osmosis system processes brackish ground water from either alluvial wells or from deep wells in the San Diego Formation or both. The facility also has discharges of groundwater well-purge water, plant feed-water dump, pressure (air) relief valve water, and chlorine contact-tank overflow water.
5. The brine concentrate from the reverse osmosis processing system discharges through a 14-inch diameter pipe to the existing concrete-lined Upper Paradise Creek Flood Control Channel at latitude 32° 39' 34" north and longitude 117° 05' 00" west. The Upper Paradise Creek Flood Control Channel conveys the brine concentrate to the Sweetwater River at latitude 32° 39' 31" north and longitude 117° 05' 02" west, a location included in the tidal prism of the San Diego Bay. The Upper Paradise Creek Flood Control Channel and the Lower Sweetwater River are located in the La Nacion Hydrologic Subarea (909.12) of the Sweetwater Hydrologic Unit (909.00).
6. The groundwater well-purge water discharges occur near the facility in the Lower Sweetwater River, tidal prism of San Diego Bay, or up gradient from the facility along various points along the Sweetwater River. The plant feed-water dump (the manifold supplying the reverse osmosis process trains) occurs if one or more of the reverse osmosis

process trains are not in operation or at start-up of the process trains. The pressure (air) relief valves may discharge groundwater when the pipeline delivering water to the demineralization plant is vacated and refilled. The chlorine contact-tank overflow discharge may occur if the potable water tank is not suitable for distribution.

7. On May 18, 2000 the United States Environmental Protection Agency (USEPA) promulgated the California Toxic Rule (CTR) as required by Section 303(c)(2)(B) of the federal Clean Water Act. The CTR regulations, codified in 40 CFR 131.38, establish numeric criteria for water quality standards for priority toxic pollutants for the State of California.
8. On March 2, 2000 the State Water Resources Control Board (hereinafter State Board) adopted the *Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (Phase 1 of the Inland Surface Waters Plan and the Enclosed Bays and Estuaries Plan)*, 2000 (Implementation Policy), which provides guidance for the development of effluent limitations for priority toxic pollutants that are consistent with water quality criteria for such pollutants promulgated by the USEPA in the CTR (40 CFR 131.38).
9. The CTR and the Implementation Policy are applicable to discharges from the Demineralization Plant and appurtenances.
10. The Implementation Policy and 40 CFR 122.45(c)(1) requires effluent limitations for metals in NPDES permits be specified as total recoverable concentrations. This Order includes effluent limitations for metals expressed as total recoverable.
11. The RWD submitted by the discharger includes information that the various discharges from the facility contain total recoverable copper concentrations that are higher than the receiving water quality criterion listed in the CTR. The Implementation Policy allows the discharger to develop alternative conversion factors for the discharges of metals to determine compliance with water quality-based effluent limitations (WQBEL) for site-specific locations.
12. The State Board adopted the *Water Quality Control Policy for Enclosed Bays and Estuaries of California (Bays and Estuaries Policy)* on May 16, 1974. The *Bays and Estuaries Policy* establishes principles for management of water quality, quality requirements for waste discharges, discharge prohibitions, and general provisions to prevent water quality degradation and to protect the beneficial uses of waters of enclosed bays and estuaries. These principles, requirements, prohibitions, and provisions have been incorporated into this Order.
13. The *Bays and Estuaries Policy* contains the following principle for management of water quality in enclosed bays and estuaries, which includes San Diego Bay:

The discharge of municipal wastewaters and industrial process waters (exclusive of cooling water discharges) to enclosed bays and estuaries shall be phased out at the earliest practicable date. Exceptions to this provision may be granted by a Regional Board only when the Regional Board finds that the wastewater in question would consistently be treated and discharged in such a manner that it would enhance the quality of receiving waters above that which would occur in the absence of the discharge. For the purpose of this policy, treated ballast waters and innocuous nonmunicipal wastewater such as clear brines, washwater, and pool drains are not necessarily considered industrial process wastes, and may be allowed by Regional Boards under discharge requirements that provide protection to the beneficial uses of the receiving water.

For the purpose of the *Bays and Estuaries Policy* and this Order, the discharge of reverse osmosis brine concentrate, groundwater well-purge water, plant feed-water dump, pressure (air) relief valve water, and chlorine contact-tank overflow associated with the Demineralization Plant will be considered innocuous nonmunicipal wastewaters and, as such, will not be considered industrial process wastes. Therefore, the discharges of such wastes may be allowed by this Regional Board under waste discharge requirements that provide protection of the beneficial uses of the receiving waters.

14. The following *Principles for the Management of Water Quality in Enclosed Bays and Estuaries*, as stated in the *Bays and Estuaries Policy* apply to all of California's enclosed bays and estuaries including San Diego Bay:
 - a. *Persistent or cumulative toxic substances shall be removed from the waste to the maximum extent practicable through source control or adequate treatment prior to discharge.*
 - b. *Bay or estuarine outfall and diffuser systems shall be designed to achieve the most rapid initial dilution practicable to minimize concentrations of substances not removed by source control or treatment.*
 - c. *Wastes shall not be discharged into or adjacent to areas where the protection of beneficial uses requires spatial separation from waste fields.**
 - d. *Waste discharges shall not cause a blockage of zones of passage required for the migration of anadromous fish.*
 - e. *Nonpoint sources of pollutants shall be controlled to the maximum practicable extent.*

This Regional Board has considered the *Principles for the Management of Water Quality in Enclosed Bays and Estuaries*, in adopting this Order. The terms and conditions of this Order are consistent with the *Principles for the Management of Water Quality in Enclosed Bays and Estuaries*.

* Note: As of the date of adoption of this Order, no segment of San Diego Bay has been designated as an area where the protection of beneficial uses requires spatial separation from waste fields.

15. The *Water Quality Control Plan, San Diego Basin (9)* (Basin Plan) was adopted by this Regional Board on September 8, 1994; and, was subsequently approved by the State Board on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by this Regional Board and approved by the State Board. The Basin Plan designates beneficial uses and establishes narrative and numerical water quality objectives, and prohibitions, which are applicable to the discharges regulated under this Order.
16. The Basin Plan includes the tidal prism of the Lower Sweetwater River in the beneficial use designations for San Diego Bay (p. 2-47, Table 2-3, Beneficial Uses of Coastal Waters). The tidal prism is considered part of San Diego Bay. The Basin Plan established the following beneficial uses for the waters of San Diego Bay:
 - a. Industrial Service Supply,
 - b. Navigation,
 - c. Contact Water Recreation,
 - d. Non-contact Water Recreation,
 - e. Commercial and Sport Fishing,
 - f. Preservation of biological habitats of special significance,
 - g. Estuarine Habitat,
 - h. Wildlife Habitat,
 - i. Rare, Threatened, or Endangered Species,
 - j. Marine Habitat,
 - k. Migration of Aquatic Organisms, and
 - l. Shellfish Harvesting.
17. The Basin Plan has established the following beneficial uses for the waters of the Lower Sweetwater River (909.12):
 - a. Industrial Service Supply,
 - b. Contact Water Recreation,
 - d. Non-contact Water Recreation,
 - e. Warm Freshwater Habitat, and
 - f. Wildlife Habitat.
18. The Basin Plan established narrative water quality objectives for the following parameters in order to protect the beneficial uses of inland surface waters, enclosed bays and estuaries, coastal lagoons, and ground waters:
 - a. Physical characteristics,

- b. Biological characteristics,
- c. Bacteria,
- d. Toxicity,
- e. Chemical characteristics, and
- f. Radioactivity.

19. The Basin Plan includes the following narrative as a water quality objective which is applicable to the discharge:

Inland surface waters, bays and estuaries and coastal lagoon waters shall not contain biostimulatory substances in concentrations that promote aquatic growth to the extent that such growths cause nuisance or adversely affect beneficial uses.

20. Because the discharge of brine concentrate has the potential to cause an impact to the biological resources of the receiving waters, this Order requires the discharger to continue implementing the *Mitigation and Monitoring Program* (MMP) developed by the discharger in its 1998 Environmental Impact Report (EIR) for this facility. The MMP is used to evaluate potential impacts to the receiving waters. The EIR identified nitrate as possibly causing eutrophication in the receiving waters. This Order contains an effluent limitation, based on the MMP and best professional judgment, for nitrate concentrations in the brine discharge and requires the discharger to continue the MMP.
21. The effluent limitations in this Order are water quality-based effluent limitations (WQBEL) developed pursuant to the CTR using the applications developed in the Implementation Policy, and upon the policy in the Basin Plan.
22. This Order requires that the daily effluent flow rate for the discharges of reverse osmosis brine not exceed a monthly average flow rate of 0.800 million gallons per day (mgd).
23. Pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (collectively *antidegradation policies*), this Regional Board has determined that an antidegradation analysis is not necessary since this Order protects existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.
24. Effluent limitations, and ocean discharge criteria established under Sections 301, 302, 303(d), 304, 306, and 403 of the CWA, as amended (33 U.S.C. 1251 et seq.), are applicable to the discharge.
25. Section 402(p) of the CWA (33 U.S.C. Section 1342(p)), and regulations adopted by the USEPA (40 CFR Section 122.26) require that facilities which discharge storm water associated with industrial activity be regulated by an NPDES permit. The State Board's General NPDES Permit No. CAS000001 for industrial activity does apply to this facility.

26. For the purposes of this Order, *waste* includes the discharger's total discharge, of whatever origin, i.e. gross, not net, discharge.
27. For the purposes of this Order, the term *permittee* used in parts of Title 40, Code of Federal Regulations (40 CFR) incorporated into this Order by reference and/or applicable to this Order shall have the same meaning as the term *discharger* used elsewhere in this Order.
28. This Order shall serve as an NPDES Permit and as Waste Discharge Requirements for the discharges of brine concentrate, groundwater well-purge water, plant feed-water dump water, pressure (air) relief valve water, and chlorine contact-tank overflow water associated with the Demineralization Plant to the Upper Paradise Creek Flood Control Channel, to the tidal prism of the Lower Sweetwater River (part of San Diego Bay), and the Sweetwater River pursuant to Section 402 of the CWA, and amendments thereto.
29. This Regional Board, in establishing the requirements contained herein, considered factors including, but not limited to, the following:
 - a. Beneficial uses to be protected and the water quality objectives reasonably required for that purpose;
 - b. Other waste discharges;
 - c. The need to prevent nuisance;
 - d. Past, present, and probable future beneficial uses of the tidal prism of the Lower Sweetwater River waters and the Sweetwater River under consideration;
 - e. Environmental characteristics of the tidal prism of the Lower Sweetwater River waters, the Sweetwater River, and San Diego Bay under consideration;
 - f. Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area;
 - g. Economic considerations; and
 - h. The need for developing housing within the region.
30. The issuance of waste discharge requirements for this discharge is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with the California Water Code, Section 13389.
31. This Regional Board has considered all water resource related environmental factors associated with the discharge of wastes to the Upper Paradise Creek Flood Control

Channel, to the tidal prism of the Lower Sweetwater River (part of San Diego Bay), and the Sweetwater River.

32. This Regional Board has notified the Sweetwater Authority and all known interested parties of its intent to issue an NPDES permit and waste discharge requirements for the proposed discharge of wastes.
33. This Regional Board has, at a public meeting, heard and considered all comments pertaining to the discharge of brine concentrate, groundwater well-purge water, plant feed-water dump, pressure (air) relief valve, and chlorine contact-tank overflow to the Upper Paradise Creek Flood Control Channel, to the tidal prism of the Lower Sweetwater River (part of San Diego Bay), and the Sweetwater River.

IT IS HEREBY ORDERED, that Sweetwater Authority (hereinafter discharger), in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted thereunder, and the provisions of the Clean Water Act (CWA) and the regulations adopted thereunder, shall comply with the following requirements for discharges to the Upper Paradise Flood Control Channel, to the tidal prism of the Lower Sweetwater River, and the Sweetwater River:

A. PROHIBITIONS

1. Compliance with the waste discharge prohibitions contained in the Basin Plan and listed in *Attachment B* hereto is required as a condition of this Order. [Basin Plan (BP)]
2. Discharges of wastes in a manner or to a location which have not been specifically authorized by this Order and for which valid waste discharge requirements are not in force are prohibited.
3. Wastes shall not be discharged into or adjacent to areas where the protection of beneficial uses requires spatial separation from waste fields. [Enclosed Bays and Estuaries Policy (EBEP)]
4. The discharge of municipal and industrial waste sludge and untreated sludge digester supernatant, centrate, or filtrate to San Diego Bay, or into a waste stream that discharges to San Diego Bay is prohibited. [EBEP]
5. The deposition of rubbish or refuse into San Diego Bay or at any place where they would be eventually transported to San Diego Bay is prohibited. Rubbish and refuse include any cans, bottles, paper, plastic, vegetable matter, or dead animals or dead fish deposited or caused to be deposited by man. [EBEP]
6. The discharge or bypassing of untreated waste to San Diego Bay is prohibited. [EBEP]

7. New discharges of municipal wastewaters and industrial process waters (exclusive of cooling water discharges) to San Diego Bay which are not consistently treated and discharged in a manner that would enhance the quality of receiving waters above that which would occur in the absence of the discharge, are prohibited. [EBEP]
8. The discharges of reverse osmosis brine concentrate to San Diego Bay in excess of a monthly average flow rate of 0.800 mgd is prohibited unless the discharger obtains revised waste discharge requirements authorizing an increased flow rate.
9. The discharge of wastes to the Upper Paradise Creek Flood Control Channel, to the tidal prism of the Lower Sweetwater River (part of San Diego Bay), and the Sweetwater River containing concentrations of pollutants in excess of those identified in *Effluent Limitations B.1, B.2, and Interim Effluent Limitations C* of this Order are prohibited.
10. Odors, vectors, and other nuisances of waste origin beyond the limits of the property controlled by discharger are prohibited.
11. The discharges of waste, exclusive of reverse osmosis brine concentrate, groundwater well-purge water, plant feed-water dump, pressure (air) relief valve, and chlorine contact-tank overflow as discussed in the Findings of this Order or the Fact Sheet for this Order, are prohibited.

B. EFFLUENT LIMITATIONS

1. The discharge of reverse osmosis brine concentrate shall not exceed the effluent limitations listed in *Table 1. Effluent Limitations for Brine Concentrate*.

Table 1. Effluent Limitations for Brine Concentrate.

Constituent	Units	Effluent Limitations
Flow	mgd	0.800
Copper	µg/L, total recoverable	3.73* (0.025 pounds/day)
Nitrate (as N)	µg/L	5.0 (33 pounds/day)
pH	units	Within the limits of 6.0 to 9.0 at all times

* N.B. an interim effluent limitation for copper is provided for in Interim Effluent Limitations C.

2. The discharges of groundwater well-purge water, plant feed-water dump, pressure (air) relief valves, and chlorine contact-tank overflow shall not exceed effluent limitations noted in *Table 2. Effluent Limitations for Groundwater Well-purge Water, Plant Feed-water Dump, Pressure (Air) Relief Valves, and Chlorine Contact-tank Overflow*.

Table 2. Effluent Limitations for Groundwater Well-purge Water, Plant Feed-water Dump, Pressure (Air) Relief Valves, and Chlorine Contact-tank Overflow.

Constituent	Units	Effluent Limitations
Chlorine Residual	mg/L	0
pH	units	Within the limits of 6.0 to 9.0 at all times

3. The discharger shall not cause pollution, contamination, or nuisance, as those terms are defined in CWC 13050, as a result of the treatment or discharge of wastes.
4. All waste treatment, containment and disposal facilities shall be protected against 100-year peak stream flows as defined by the San Diego County flood control agency.
5. All waste treatment, containment and disposal facilities shall be protected against erosion, overland runoff and other impacts resulting from a 100-year frequency 24-hour storm.
7. Collected screenings, sludges, and other solids removed from liquid wastes, shall be disposed of in a manner approved by this Regional Board.
8. The discharge of substances for which effluent limitations are not established in this Order shall be prevented, or, if the discharge cannot be prevented, minimized.

C. INTERIM EFFLUENT LIMITATIONS

If the discharger applies for and (1) commits to (a) completing a defensible site-specific translator study and, (b) proposes a dissolved to total recoverable translator; and (2) describes the methods to be used in developing the translator prior to the adoption of this Order, then an interim effluent limitation for copper for the discharge of reverse osmosis brine concentrate shall not exceed 3.1 µg/L as dissolved (0.021 pounds/day). The interim effluent limitation for copper shall terminate 2-years after the adoption of this Order. Upon evaluation of the proposed dissolved to total recoverable translator, this Order may be modified by the Regional Board.

D. RECEIVING WATER LIMITATIONS

1. The discharge of wastes to San Diego Bay shall not by itself or jointly with any discharge(s) cause violation of the following water quality objectives.
 - a. Physical Characteristics
 - (1) Waters shall not contain oils, greases, waxes, or other materials in concentrations which result in a visible film or coating on the surface of

the water or on objects in the water, or which cause nuisance or which otherwise adversely affect beneficial uses. [BP]

- (2) Waters shall not contain floating material, including solids, liquids, foams, and scum in concentrations which cause nuisance or adversely affect beneficial uses. [BP]
- (3) The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses. [BP]
- (4) Waters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses. [BP]
- (5) Waters shall not contain taste or odor producing substances at concentrations which cause a nuisance or adversely affect beneficial uses. [BP]
- (6) Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. In addition, within San Diego Bay, the transparency of bay waters, insofar as it may be influenced by any controllable factor, either directly or through induced conditions, shall not be less than 8 feet in more than 20 percent of the readings in any zone, as measured by a standard Secchi disk. Wherever the water is less than 10 feet deep, the Secchi disk reading shall not be less than 80 percent of the depth in more than 20 percent of the readings in any zone. [BP]

b. Chemical Characteristics

- (1) The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally, as a result of the discharge of oxygen demanding waste materials. [BP]
- (2) The pH shall not be changed at any time more than 0.2 units from that which occurs naturally. The pH shall not be depressed below 7.0 nor raised above 9.0. [BP]
- (3) San Diego Bay waters shall not contain biostimulatory substances in concentrations that promote aquatic growth to the extent that such growths cause nuisance or adversely affect beneficial uses. [BP]
- (4) The discharge of wastes shall not cause concentrations of un-ionized ammonia (NH_3) to exceed 0.025 mg/l (as N) in San Diego Bay. [BP]

- (5) No individual pesticide or combination of pesticides shall be present in the water column, sediments or biota at concentration(s) that adversely affect beneficial uses. Pesticides shall not be present at levels which will bioaccumulate in aquatic organisms to levels which are harmful to human health, wildlife or aquatic organisms. [BP]

c. Radioactivity

Radionuclides shall not be present in concentrations that are deleterious to human, plant, animal, or aquatic life nor that result in the accumulation of radionuclides in the food web to an extent that presents a hazard to human, plant, animal or aquatic life. [BP]

d. Toxicity

All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. [BP]

e. Pesticides

No individual pesticide or a combination of pesticides shall be present in concentrations that adversely affect beneficial uses. There shall be no increase in pesticide concentrations found in bottom sediments or aquatic life.

E. PROVISIONS

1. Pursuant to the CWC Section 13267(b) and 13383, the discharger shall comply with Monitoring and Reporting Program No. R9-2004-0111 as specified by this Regional Board.
2. The discharger shall evaluate the data collected for Receiving Water Monitoring C. specified in Monitoring and Reporting Program No. R9-2004-0111 and determine if the data indicates that the discharge has caused an exceedence of threshold limits for nutrients, or impacts to the downstream beneficial uses in the Lower Sweetwater River. The discharger must notify this Regional Board within 15 days of any determination that an exceedence of threshold limits for nutrients or impacts to downstream beneficial uses has occurred in the Lower Sweetwater River. Within 30 days of making such a determination the discharger shall take measures to eliminate the exceedence of threshold limits for nutrients or impacts to downstream beneficial uses in the Lower Sweetwater River. Such measures may include adjusting the overall production levels to prevent the discharge from exceeding the threshold limits for nutrients, constructing a wetland marsh system to remove nutrients from the discharge, implementing best management practices

to reduce other sources of nutrients in the receiving waters, or equivalent measures to eliminate impacts to the receiving waters.

3. As necessary, the discharger shall arrange a meeting with this Regional Board and the following agencies to review the monitoring data and analyses for *Receiving Water Monitoring C*, specified in *Monitoring and Reporting Program No. R9-2004-0111*.

- a. U.S. Bureau of Reclamation
- b. U. S. Fish and Wildlife Service
- c. National Marine Fisheries Service
- d. California Department of Fish and Game

At that time, a determination will be made as to whether additional monitoring and or revisions will be required to the *Lower Sweetwater River Basin Groundwater Demineralization Project, Mitigation and Monitoring Program*, prepared by Sweetwater Authority and U.S. Bureau of Reclamation, May 16, 1997, as revised through July 1998.

4. The following sections of 40 CFR are incorporated into this permit by reference and additional Provision are listed in *Attachment C*:

- a. 122.5 *Effect of a permit*
- b. 122.21 *Application for a permit*
- c. 122.22 *Signatories to permit applications and reports*
- d. 122.41 *Conditions applicable to all permits*
- e. 122.61 *Transfer of permits*
- f. 122.62 *Modification or revocation of permits*
- g. 122.63 *Minor modifications of permits*
- h. 122.64 *Termination of permits*

5. Neither the treatment nor the discharge of pollutants shall create a pollution, contamination, or nuisance as defined by Section 13050 of the California Water Code.
6. The discharger must comply with all conditions of this Order. Any permit noncompliance constitutes a violation of the Clean Water Act and the California Water Code and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a Report of Waste Discharge application.
7. The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the non-complying discharge.
8. This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this Order;
- b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the discharger for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.

9. Notwithstanding *Provision E.9* above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollution in this Order, this Order shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the discharger so notified.
10. In addition to any other grounds specified herein, this permit shall be modified or revoked at any time if, on the basis of any new data, this Regional Board determines that continued discharges may cause unreasonable degradation of the marine environment.
11. The discharge shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Regional Board or the State Water Resources Control Board as required by the Clean Water Act and regulations adopted thereunder. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the Clean Water Act or amendments thereto, the Regional Board will revise and modify this Order in accordance with the more stringent standards.
12. The discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement.
13. This Order is not transferable to any person except after notice to this Regional Board. This Regional Board may require modification or revocation and reissuance of this Order to change the name of the discharger and incorporate such other requirements as may be necessary under the California Water Code and the Clean Water Act. The discharger shall submit notice of any transfer of this Order's responsibility and coverage to a new discharger as described under *Reporting Requirement F.3*.
14. This Order does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property of another, nor protect the discharger from its liabilities

under federal, state, or local laws, nor create a vested right for the discharger to continue its waste discharge.

15. The discharger shall allow this Regional Board, or an authorized representative, or any representative of the United States Environmental Protection Agency upon the presentation of credentials and other documents as may be required by law, to:
 - a. Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
 - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operation regulated or required under this Order; and
 - d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the Clean Water Act or California Water Code, any substances or parameters at any location.
16. The discharger shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Order.
17. In an enforcement action, it shall not be a defense for the discharger that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this Order. Upon reduction, loss, or failure of the treatment facility, the discharger shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies, for example, when the primary source of power of the treatment facility fails, is reduced or is lost.
18. A copy of this Order shall be posted at a prominent location at the Lower Sweetwater River Basin Groundwater Demineralization Plant facility and shall be available to operating personnel at all times.
19. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstances, is held invalid, the

application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.

F. REPORTING REQUIREMENTS

1. The discharger shall file a new Report of Waste Discharge not less than 180 days prior to the following:
 - a. Addition of any industrial waste to the discharge or the addition of a new process or product resulting in a change in the character of the wastes.
 - b. Significant change in disposal method (e.g., change in the method of treatment which would significantly alter the nature of the waste).
 - c. Significant change in disposal area (e.g., moving the discharge to a disposal area significantly removed from the original area, potentially causing different water quality or nuisance problems).
 - d. Increase in flow beyond that specified in this Order.
 - e. Other circumstances which result in a material change in character, amount, or location of the waste discharge.
 - f. Any planned physical alterations or additions to the permitted facility.
2. The discharger shall give advance notice to this Regional Board of any planned changes in the permitted facility or activity which may result in noncompliance with the requirements of this Order.
3. The discharger must notify this Regional Board, in writing, at least 30 days in advance of any proposed transfer of this Order's responsibility and coverage to a new discharger. The notice must include a written agreement between the existing and new discharger containing a specific date for the transfer of this Order's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgment that the existing discharger is liable for violations up to the transfer date and that the new discharger is liable after the transfer date.
4. The discharger shall comply with the attached *Monitoring and Reporting Program No. R9-2004-0111*. Monitoring results shall be reported at the intervals specified in *Monitoring and Reporting Program No. R9-2004-0111*.
5. The discharger shall report any non-compliance which may endanger health or the environment. Any information shall be provided orally to this Regional Board within 24

hours from the time the discharger becomes aware of the circumstances. A written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. This Regional Board, or an authorized representative may waive the written report on a case-by-case basis if the oral report has been received within 24 hours. The following occurrences must be reported to this Regional Board within 24 hours:

- a. Any upset which causes the effluent limitations of this order to be exceeded.
 - b. Any violation of any prohibition of this Order.
6. The discharger shall notify this Regional Board as soon as it knows or has reason to believe:
- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic or non-toxic pollutant which is not limited in this Order, if that discharge will exceed the highest of the following "notification levels:"
 - (1) One hundred micrograms per liter (100 $\mu\text{g/l}$);
 - (2) Two hundred micrograms per liter (200 $\mu\text{g/l}$) for acrolein and acrylonitrile; five hundred micrograms per liter (500 $\mu\text{g/l}$) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge submitted in application for this Order in accordance with 40 CFR 122.21(g)(7); or
 - (4) The level established by this Regional Board in accordance with 40 CFR 122.44(f).
 - b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic or non-toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following *notification levels*:
 - (1) Five hundred micrograms per liter (500 $\mu\text{g/l}$);
 - (2) One milligram per liter (1 mg/l) for antimony;

- (3) Ten (10) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge submitted in application for this Order in accordance with 40 CFR 122.21(g)(7); or,
 - (4) The level established by this Regional Board in accordance with 40 CFR 122.44(f).
7. The discharger shall furnish to this Regional Board, within a reasonable time, any information which this Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order, or to determine compliance with this Order. The discharger shall also furnish to this Regional Board, upon request, copies of records required to be kept by this Order.
8. The discharger shall provide adequate notice to this Regional Board of the following:
 - a. Any new introduction of pollutants to the discharge.
 - b. Any substantial change in the volume or character of pollutants being introduced into the discharge.
 - c. For the purpose of this requirement, adequate notice shall include information on (1) the quality and quantity of waste introduced into the discharge, and (2) any anticipated impact of the change on the quantity or quality of effluent discharged to San Diego Bay.
9. Where the discharger becomes aware that they failed to submit any relevant facts in a Report of Waste Discharge, or submitted incorrect information in a Report of Waste Discharge, or in any report to this Regional Board, they shall promptly submit such facts or information.
10. This Order expires on June 9, 2009. If the discharger wishes to continue an activity regulated by this Order after the expiration date of this Order, the discharger must apply for and obtain new waste discharge requirements. The discharger must file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, not later than 180 days in advance of such dates, as application for issuance of new waste discharge requirements.
11. All applications, reports, or information submitted to this Regional Board shall be signed and certified.
 - a. All Reports of Waste Discharge shall be signed as follows:
 - (1) **For a corporation:** by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a

principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) **For a partnership or sole proprietorship:** by a general partner or the proprietor, respectively; or
 - (3) **For a municipality, State, Federal or other public agency:** by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (a) the chief executive officer of the agency, or (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA).
- b. All reports required by this Order, and other information requested by this Regional Board shall be signed by a person described in *paragraph a.* of this reporting requirement, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- (1) The authorization is made in writing by a person described in *paragraph a.* of this reporting requirement;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and,
 - (3) The written authorization is submitted to this Regional Board.
- c. If an authorization under *paragraph b.* of this reporting requirement is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *paragraph b.* of this reporting requirement must be submitted to this Regional Board prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Any person signing a document under *paragraph a. or b.* of this reporting requirement shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

12. Except for data determined to be confidential under Title 40, Code of Federal Regulations Part (40 CFR Part 2), all reports prepared in accordance with the terms of this Order shall be available for public inspection at the offices of the California Regional Water Quality Control Board, San Diego Region and the United States Environmental Protection Agency, Region IX. As required by the Clean Water Act, Reports of Waste Discharge, this Order, and effluent data shall not be considered confidential.
13. The discharger shall submit reports and provide notifications as required by this Order in accordance with the following:

- a. Reports required to be submitted to this Regional Board shall be sent to:

Industrial Compliance Unit
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Notifications required to be provided to this Regional Board shall be made to:

Telephone - (858) 467-2952 or
Facsimile - (858) 571-6972

- b. Reports required to be submitted to the U.S. EPA shall be sent to:

U.S. Environmental Protection Agency
Region IX
Compliance Office (WTR-7)
75 Hawthorne Street
San Francisco, California 94105

G. NOTIFICATIONS

1. CWC Section 13263(g) states:

No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

2. The CWC provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the Clean Water Act. [CWC Sections 13385, and 13387]

Nothing in this Order shall be construed to protect the discharger from its liabilities under federal, state, or local laws.

Except as provided for in 40 CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the discharger from civil or criminal penalties for noncompliance.

Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties to which the discharger is or may be subject to under Section 311 of the CWA.

Nothing in this Order shall be construed to preclude institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the CWA.

3. Any noncompliance with this permit constitutes violation of the California Water Code and is grounds for denial of an application for permit modification. (Also see 40 CFR 122.41(a))
4. This Order shall become effective 10 days after the date of its adoption, provided the U.S. EPA Regional Administrator has no objection. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on June 9, 2004.

tentative
JOHN H. ROBERTUS
Executive Officer